

1 you mentioned, we have done now the 14th order on
2 reconsideration, and I'm absolutely willing to do a 15th
3 order on reconsideration if necessary to get this right.

4 DR. KIENZLE: I'd like to add a comment about --
5 there's a lot of talk about a digital divide, and certainly
6 there is a digital divide as it applies to the rural
7 setting. The rural setting is a complex setting, and one
8 aspect of the digital divide that cannot be overcome by
9 technology per se is the rate of poverty in the rural
10 setting is a confounding variable that certainly contributes
11 to the digital divide, quite apart from the availability of
12 connectivity or the availability of bandwidth.

13 And so there's only so much one can fix with
14 technology, and then I think you have to say that there are
15 other elements as well, that it's not going to improve
16 unless some of the other contributing issues are also
17 addressed.

18 SENATOR KERREY: Yes. Earlier in the first panel
19 that we had I was asking Governor Maurstad, and I wasn't
20 quite as specific or as clear as I should have been, but
21 when you look at the e-rate, the allocation of resources and
22 the e-rate, and with the e-rate we use school lunch to
23 determine how money gets distributed.

24 We've got -- in Nebraska we've got counties -- in
25 Grant they've got a less than \$10,000 per-capita income and

1 they receive no e-rate monies, and that's just one example.
2 Of the 93 counties we've got laid out, it just stands out
3 that one of the possible changes in the e-rate that we need
4 to do is to put some sort of a flat dollar amount out there
5 for everybody. It may be relatively small, but \$50,000 a
6 grant is a lot of money.

7 And maybe some of those smaller counties, because
8 of the size of the county, especially if you've got low
9 incomes in the county anyway -- it's the poorest county in
10 America. Keya Paha and McPherson are the two poorest
11 counties in America. McPherson has 3,600 per capita income,
12 and at \$3,600 per capita income it is very difficult for a
13 private sector company to service it.

14 And it seems to me that we're going to need to
15 make -- if a T1 line isn't going to be a miracle that they
16 have coming to them at any point in time, we're going to
17 have to make some special effort beyond what we currently
18 have or they're just going to get left behind.

19 MS. HAMMACK: The same thing I think is occurring
20 in health care, because even though the cost of a T1 line
21 might be coming down from \$2,000 a month to \$600, for some
22 small rural hospitals that's still -- that still is probably
23 prohibitive. And I know there is a network in Northeast
24 Nebraska that's having some difficulty in bringing up the
25 telemedicine project, even though they have an equipment

1 grant because they're concerned about that and they don't
2 want to start something that then is not going to be viable,
3 and so that is a problem.

4 I do want to also say that with the complexity of
5 the process, that your staff is very good. They are very
6 good. They're patient, they're polite, and I've never
7 talked to anyone that is not so. But I'm beginning to think
8 it's just inherent in the process that there -- it's so
9 terribly complex, and as you said, in trying to avoid
10 problems for the audit, you needed to ask all of these
11 questions.

12 Just one simple thing that I wonder though that
13 might be helpful, and that is -- in health care we do case
14 management and we manage a family or a patient, and
15 sometimes I've noticed that even though the people are very
16 polite and efficient, we sure have contact with a lot of
17 different ones. And I'm wondering if perhaps they focused
18 on particular state or something, if it wouldn't be a little
19 bit easier and cut some of the re-asking of questions. I'm
20 not sure. But that is one small thing that we've noticed.

21 CHAIRMAN KENNARD: I'll take that back with me,
22 it's a good suggestion.

23 MS. HAMMACK: Thank you.

24 MS. SANFORD: Given the economies that appear
25 clearly to be associated with delivery of medical care

1 through telemedicine, it would appear to me that there would
2 be great incentive on the part of the insurance industry --
3 the reimbursement industry to support development of the
4 process. Am I -- is there, and if there isn't, why not?
5 What am I misreading about where the incentive should be?

6 DR. KIENZLE: We've had very productive dialogue
7 with the insurance entities in Iowa over the last six months
8 or so, and certainly one of the issues that -- even if it's
9 unspoken is, lack of access is a built-in break on the cost
10 of health care. It's a dirty little secret, but lack of
11 access actually keeps health care costs down. And so there
12 is an inherent fear that by providing better access the cost
13 of care is going to go up.

14 Now --

15 MS. SANFORD: Even if the unit cost is lower?

16 DR. KIENZLE: Well, there's no reason necessarily
17 to believe that the unit cost should be lower just because
18 you're doing it with an expensive technology. In fact, it
19 could be a little bit higher, given the support that's
20 required.

21 But in states that have developed a reimbursement
22 strategy, what they found is that it really doesn't seem to
23 drive utilization up at all, and so I've often suspected --
24 that the discussion that went on about whether HCFA should
25 pay for telemedicine, part of the rationale for not paying

1 for it was based on some very early papers by some junior
2 staffers who suspected that this was going to cost HCFA
3 billions and billions of extra dollars, and those same staff
4 people now will admit that this was entirely wrong.

5 So I think that access -- what we have found is
6 that there are certain applications, for instance, the care
7 of disabled children who are very difficult to move from one
8 place to another. We've done a randomized trial of looking
9 at telemedicine for disabled children care versus standard
10 care, which is, the family brings the children, they bring
11 the teachers, they bring them up and they have an all-day
12 session.

13 What we found is that we can do the same
14 evaluation in one-third of the time. We involved more
15 people at both ends of the equation, and we save those
16 families, on the average, \$1,000 per year in out-of-pocket
17 expense. Well, that's kind of a no-brainer from my
18 perspective, but the -- everybody benefits. But the
19 patients benefit and the families benefit mightily.

20 So I think that as we get more real data -- and
21 part of the problem I have to admit is there's precious
22 little scientific data, rigorous data to support the cost-
23 effectiveness and the safety and efficacy of telemedicine.
24 I'll admit that freely. As the number of studies emerge
25 that do show that in certain applications there are

1 benefits, what I think is we'll have a much more rational
2 and productive discussion between providers and insurers.

3 MS. BOYLE: Time is running short and I know
4 there's a public part of the program. As a point of
5 personal privilege, on behalf of the Nebraska commission, I
6 would like to thank the three senators who are here from the
7 Nebraska legislature.

8 Senator Kirk Braham is chair of the
9 transportation committee, and I don't know if there has ever
10 been a time in the history of the Commission where we've had
11 a better relationship with the transportation committee.
12 Senator Bob Wickersham traveled probably as far as
13 Commissioner Fertney [phonetic] from Wyoming. His district
14 is from the Wyoming-South Dakota border, up in the corner of
15 the state of Nebraska, and if there's anybody in this
16 audience today who has a real interest in what we're doing,
17 it is Senator Wickersham.

18 And Senator Pat Ingle, who canceled a previous
19 commitment that he had of a very personal nature to be here
20 and to host this -- we are in his district. And I want to
21 thank all three of you very much for being here today.

22 And finally, thank you very much for your very
23 helpful insights, and I am sure we will all benefit from all
24 of this.

25 (Applause.)

1 MR. KENNARD: Ladies and gentlemen, we've now
2 reached the part of our program that I've been waiting for,
3 which is to hear from all of you who have been patiently
4 listening in the audience. We have about a half an hour now
5 for questions from the audience. I would ask that anyone
6 who has a question if they could come up here -- there are
7 mikes here available for you. We do have a couple of cards
8 here of questions that I'll read.

9 First of all we have a question here from
10 Richard -- a statement. Very well.

11 Would Richard Ducksberry please come forward and
12 make a statement or ask a question, whatever you want to do.
13 Please introduce yourself and your affiliation.

14 MR. DUCKSBERRY: My name is Richard Ducksberry.
15 I'm Executive Director of NNPP Energy in Lincoln, Nebraska.
16 Our association is made up of about 180 municipalities in
17 eight states in this region. Many of those are interested
18 in broadband and telecommunications, but like the contrast
19 of Hawarden, Iowa that appeared in the first panel, with
20 what we find in Nebraska -- because Hawarden and for
21 example, Kimball, Nebraska, both operate electric utilities.
22 They both operate gas utilities. They have sewer and water
23 but they're not able to do anything in the
24 telecommunications.

25 And they want to do that. They are feeling

1 pressure from their citizens within those areas to do
2 telecommunications, but because of legislation, because of
3 the various rulings, they have not been able to do that.
4 This is an impediment, and these towns and willing to do
5 self help, as Hawarden did, to get these communication
6 services available, but they're not able to do that. And
7 I'd like to get the impediments removed so that those cities
8 that want to do self help can do so.

9 CHAIRMAN KENNARD: Thank you for your comment.

10 I'd also like to recognize Michael Nolan.

11 Michael Nolan?

12 MR. NOLAN: I've given you a handout that I think
13 is a pretty good overview of at least our perspective on
14 these issues, and it begins with a metaphor. The metaphor
15 is an example -- an actual example of an individual I know
16 who works for a good-sized business in Norfolk sited his
17 home on three county lines in a rural area outside of Wayne
18 tried to get a phone service, and eventually, after having
19 sought to access with all three phone companies, determined
20 that it was going to cost him \$7,000 to hook up his phone.

21 He proceeded to contact the county and get
22 authorization to use the right of way, calculated what it
23 would cost to get a trencher, buy his own copper, did all
24 that and was able to get his connection, or I should say get
25 his hook-up line put in for about \$1,500.

1 When he contacted the phone company he wanted to
2 use, they were aghast that he had done this work on his own.
3 They initially balked at hooking him up. He called the
4 Public Service Commission, and about an hour later the phone
5 company called him back and indicated they were going to
6 hook him up.

7 In my opinion that is a metaphor for what we're
8 talking about for non-rural areas. All I'm suggesting is
9 the model that's used in Hawarden and the other communities
10 in Northwest Iowa is a model that we would like to use in
11 Northeast Nebraska. We have no interest in becoming a phone
12 company, but we do have an interest in making sure that
13 every opportunity that's available in urban areas, beyond
14 DSL, with all the diffusions that are forthcoming, come
15 quickly to rural areas, and we feel that we ought to be
16 allowed to participate in public-private partnerships to
17 accommodate those rural interests.

18 This is about the results we want to achieve.
19 This is not about the city of Norfolk or any other
20 municipality in our opinion becoming the phone company.

21 I will tell you what we have done. We've built a
22 LAN throughout the community that's hooked up all of the
23 city offices. We did that at a five-year cost -- actually,
24 it was a one-year cost. We call it a five-year cost because
25 we compare it with what it would cost us to lease the same

1 amount of infrastructure from a phone company -- our capital
2 cost was \$100,000. If we had done that same process with
3 the phone company we would have spent \$1.186 million on it.

4 It's an absolute no-brainer why we did this. We
5 were able to use access through the back way through the
6 cable TV company, the connection they had with US West to
7 put T1 over that. It also goes to the public library.
8 Every morning at those ten computers at the public library
9 we have people queuing up to get on them, at 1-1/2 megabits,
10 because they understand what the difference is between the
11 28.8 they have at home and what they have at the public
12 library.

13 In fact, we have so many people that queue up,
14 frequently we have to put them on egg timers. We limit them
15 to about 30 or 40 minutes.

16 My sense is that what we should be trying to do
17 is to use a combination of public and private resources to
18 make sure that as many people as possible have access that
19 kind of speed. We spend -- and it isn't a matter of whether
20 or not municipalities have the money. We just spent a
21 million and a half dollars less than a year ago for a storm
22 sewer system that benefitted six families in a neighborhood.

23 We have the wherewithal to do this. We have the
24 wherewithal to bring this kind of benefit to the businesses
25 and citizens of Nebraska. We need to get out of the

1 regulatory paradigm that we're dealing with and foster one
2 that allows us to do this cooperatively.

3 There are some significant trade-offs, I think,
4 in looking at DSL as the ultimate solution. I've provided
5 you -- and I won't take up a whole lot more time. There are
6 some excerpts from the TENA [phonetic] study that the state
7 had done, indicating the exact concept that we're talking
8 about as far as public-private partnership should be in
9 place in the State of Nebraska.

10 But attached to that is an article, and I took
11 out a recent MIT technology magazine that talks about a
12 forecast of 100-megabit speed in some urban areas of the
13 United States within a five-year interval of time. And the
14 last couple of pages -- and I know that these are things
15 that you probably are already aware of, of what the trade-
16 offs are in DSL and fiber.

17 I need to tell you, my specific quarrel here is
18 not with individuals. I don't want to personalize this at
19 all. This has been a difficult thing, because Nebraska
20 historically has not had, in my opinion, a very user-
21 friendly regulatory environment, and we continue to deal
22 with that when we try to talk about the results of this
23 issue that we're trying to achieve here.

24 The last legislative session before the
25 Transportation Committee the speaker of the legislature

1 introduced LB 1375, and it was very clear in his testimony
2 that he was talking about something that he didn't like that
3 was happening in Northeast Nebraska between the Nebraska
4 Public Power District and a Northeast Nebraska community who
5 we recognized he was talking about was us [sic]. And what
6 he didn't like was the fact that we were selling strands of
7 our fiber to the private sector at our cost.

8 And what he didn't understand was we were selling
9 it to the private sector so that they could hook up their
10 own LANs, where in fact the hospital would connect its
11 campuses over fiber and the banks would connect its
12 satellite offices over fiber, and they could go out and shop
13 whoever they wanted to to provide them the access to the
14 Internet of whatever else in terms of services that they
15 needed.

16 Our sense is that the result is what should be in
17 the discussion, not who provides telecommunication services
18 that result in [indiscernible] for rural areas. We're going
19 to do everything we possibly can to be supportive of a
20 concept that does not displace businesses but in fact adds
21 opportunity for additional customers.

22 Mr. Winkle, [phonetic], who's the CEO of the
23 phone company we most admire in this room has a concept that
24 he -- has a metaphor that he uses. He calls it the food
25 chain. He says there's room on it for everybody, and we

1 absolutely agree with that; there's room on the food chain
2 for everything.

3 CHAIRMAN KENNARD: Thank you. Let me ask you a
4 question about this. What's the status of this legislation,
5 LB 1375?

6 MR. NOLAN: The transportation committee did not
7 support it. We are anticipating, because this sort of
8 happens when you are going through some paradigm shifts,
9 that 1375 may come back and we'll have to deal with it next
10 session if it does. We're hopeful that it doesn't. What
11 we should be trying to do, all of us, is to figure out how
12 we create value for rural Nebraska.

13 And we need to do that as a partnership. It
14 doesn't need to be a zero sum game. We need to do it as a
15 partnership.

16 CHAIRMAN KENNARD: Thank you very much.

17 SENATOR KERREY: The telecom act says that any
18 entity can deliver services. It does not prohibit
19 municipalities. It does not permit NPPD [phonetic] or OPPD
20 [phonetic] or Norfolk or anybody else from doing it. It's
21 been an interpretation, as I understand it, by the attorney
22 general of Nebraska. It says that the state can prevent
23 this from happening.

24 MR. NOLAN: We've gone through some transitions
25 in interpretation --

1 SENATOR KERREY: Is that --

2 MR. NOLAN: No. I think you're correct, and I
3 think --

4 SENATOR KERREY: The first part of it I know I'm
5 correct.

6 MR. NOLAN: You are correct.

7 SENATOR KERREY: The federal law is very clear
8 that any entity may provide telecom services. That's what
9 the '96 act says. And what I -- as I understand it -- the
10 second part I'm not 100 percent certain of, but as I
11 understand it what the attorney general of Nebraska has said
12 is that state regulatory entities and the legislature
13 specifically in this case -- that the legislature gets to
14 decide.

15 Even though the federal law says that, the
16 attorney general said that the state legislature -- so it's
17 up to the state legislature to make the determination --

18 MR. NOLAN: It is.

19 SENATOR KERREY: -- as to whether or not they
20 think the attorney general is right. Having been governor,
21 there have been many times where I've said, Thank you for
22 your opinion, Mr. Attorney General, but I just don't happen
23 to think you're right. So it's up to the legislature to
24 decide whether or not they think the attorney general's
25 opinion as to who has the authority is --

1 MR. NOLAN: I agree with all of that. The only
2 thing that I really want to -- I want the panel not to infer
3 when they leave the room today that everything is copacetic
4 in rural Nebraska on this issue, because it's not. At least
5 from my perspective it's not.

6 CHAIRMAN KENNARD: Thank you. They can
7 understand that.

8 MR. NOLAN: Thank you.

9 CHAIRMAN KENNARD: Any other questions from the
10 audience? Yes, sir?

11 MR. JENSEN: My name is Theron Jensen [phonetic]
12 and I'm the general manager of the Henry Ford
13 [indiscernible] Telephone Company, and I'd like to thank the
14 commissioners and senator for coming out today. It's a good
15 opportunity to share some information.

16 At the urging of a friend, I'd like to share with
17 you what I think is a success story from an independent
18 telephone company's perspective, and that would be our
19 company. We serve 960 access customers over 725 square
20 miles. We have a very large territory. Our furthest
21 customer is about 35 miles away from our home -- from our
22 central office and it is a territory that we're proud to
23 serve.

24 We're very happy to be called rural Nebraska. We
25 are in the western part of the state. We're probably the

1 westernmost independent telephone company, or one of the
2 westernmost in the state. And we are an RUS borrower and we
3 have 75 percent of our revenues coming from universal
4 service fund, federal and state.

5 We have recently upgraded our facility and what
6 we've done is put fiber optics within three miles of every
7 customer's home, even the folks that are 30 miles away from
8 our central office.

9 The vision that our board of directors has for
10 our company is one that I think is admirable; one that we've
11 got to sustain at a federal and state level, because if we
12 don't build a network that has a long vision we're going to
13 rebuild it and rebuild it and rebuild it. We've built a
14 network that we believe will support services for 20 to 25
15 years down the road, up to eight megabits per customer per
16 home with current technology and potential future growth.

17 We don't have those services in place today.
18 We're still testing with the manufacturers. We're still
19 working on putting the pieces in on a broad scale. But this
20 is something that again, our company has the vision to try
21 and support, and I'd be surprised if other independents in
22 the state didn't have the same vision when you talk to them
23 as well.

24 A couple of things that were brought up really
25 scared me. When we look at the universal service funding,

1 when we look at the presentations on technology, I would
2 encourage everybody in a position to make some decisions and
3 influence the decisions that are made to look at the whole
4 picture. When you look at Hawarden, the city, they're
5 serving 100 square miles. I talked to the lady after her
6 presentation. She says they serve six miles out of town.
7 That wouldn't cover but one-seventh of our territory. We
8 couldn't do it.

9 If we were allowed to serve simply Hemingford,
10 DSL is no problem. We can do it very, very cheaply, very
11 efficiently, and look really good. The trouble is that we'd
12 have farmers and ranchers who I've heard it mentioned need
13 this service a great deal. They would be the have-nots in
14 this situation.

15 Wireless has talked about being a rural solution.
16 We've evaluated wireless before we went out with fiber
17 optics. Wireless is a fair solution for voice, but when you
18 start looking at high-speed data it's limited, especially
19 when you start talking about multiple users. When you start
20 getting more users it's a shared bandwidth. The more users
21 you get, the less bandwidth you offer.

22 I'd encourage you to think out of the box a
23 little bit. We have 800 megahertz computers today, and the
24 industry is still trying to catch up with kilohertz data
25 speeds. And there was some discussion that perhaps we won't

1 need more than a kilohertz, or a thousand kilohertz speed.
2 This is, I think, a little too narrow-sided.

3 One of the favorites quotes that I have is a Bill
4 Gates quote, where 64K ought to be enough for anybody, and
5 the same danger -- we're facing the same danger today. If
6 we try to limit those folks that we serve, we can tend to
7 create a have-not situation again.

8 Thank you for the opportunity.

9 SENATOR KERREY: Thank you very much.

10 Just one follow-up question. You said that 75
11 percent of your revenue comes from universal service
12 funding, state and federal. How much of that would you
13 estimate is explicit universal service and how much would be
14 imbedded in access?

15 MR. JENSEN: The shift has changed -- this is
16 explicit. This is what we would expect to recover this year
17 in explicit USF.

18 SENATOR KERREY: I see. So there would be some
19 additional portion that's imbedded in access, I would
20 assume, or not?

21 MR. JENSEN: I don't think so. There is still
22 some portions that is debatable whether it's explicit or
23 implicit.

24 SENATOR KERREY: I see.

25 MR. JENSEN: But it's with all of the federal and

1 state changes that were required over the last two years.

2 SENATOR KERREY: I see. Thank you very much for
3 your statement.

4 MR. McLEAN: If I might, as an RUS borrower you
5 brought up several I think very important points. In 1993
6 Congress passed legislation as an amendment to the Rural
7 Electrification Loan Restructuring Act authored by
8 Congressman Glen English, and it called for state
9 modernization planning in all 50 states, that we develop
10 plans that call for the uniform deployment of
11 telecommunication services that are capable of one megabit
12 per centimeter that can have enhanced features like
13 conference calling, call waiting, that can eliminate party
14 lines throughout the country.

15 And that is still the law of the land, and it's
16 what guides RUS investment policies, in that when we see a
17 new system being built or a rebuilt system, it's designed in
18 a way that if it's capable of evolving to providing
19 broadband advanced services and it's actually critically
20 important that the universal service support system rewards
21 that investment. Otherwise, you will get the type of
22 service that you see in very rural areas of non-RUS
23 borrowers, without saying anything in particular about
24 quality of service.

25 And if you look at a place like Hemingford or any

1 of the 30 or so other RUS borrowers in the state of
2 Nebraska, I think you can see some of the finest quality of
3 service, or at least a dedication to at least get there and
4 to be able to design a plant that's capable of evolving,
5 because the real bottleneck -- once you do that outside
6 plant right, you've locked in that investment for about 25
7 years, and the switches can evolve.

8 So if you get the outside plant design right --
9 and we have engineering standards at RUS -- it's called CSA,
10 customer service area design -- which tries, to the greatest
11 extent practical, to put customers within 18,000 feet of the
12 central office or the digital carrier line. That way they
13 can subscribe to digital subscriber line services because
14 it's within the plan.

15 So small companies like this all across the
16 nation are making dramatic investment, and I think they're
17 very concerned about the availability of universal service
18 support, and when we evaluate a loan we have to take the
19 support into calculations whether that loan is feasible.
20 And it's only with that universal service support and the
21 affordable capital that for 50 years we've been able to roll
22 out advanced services and at the same time not lose the
23 dollar for the taxpayers.

24 Thank you very much.

25 SENATOR KERREY: There's a number of other

1 success stories in this room, and I hope that those that are
2 here, speaking for Nebraska, especially on the Nebraska
3 side, will deliver in written form some information in
4 particular about how to make this universal service fund
5 work, because I think you raised, among other things, a very
6 important point, in making the point that it's one thing to
7 say that I'm going to serve a concentrated rural community
8 and quite another to say that I'm going to go five miles
9 outside of town and that's as far as I'm going to go. In
10 Nebraska that's a real problem.

11 So there's a lot of success stories in this room
12 with smaller incumbent carriers, and I hope you both deliver
13 that success story, because the Chairman's indicated an
14 interest in what's been successful as well as what barriers
15 are still there for that success. In my view it is very
16 much a good news-bad news story, and there's a tendency in
17 these kind of hearings to spend a lot of time on the
18 negative side and not enough time on the good.

19 Which reminds me of a story, if you don't mind me
20 telling you a story. I traveled not long ago with one of
21 your favorite senators, the junior senator from South
22 Carolina, Fritz Hollings. He's in his seventh term. He's
23 junior in South Carolina. And Hollings was telling a story
24 about this problem that Wilbur Mills had about -- I guess
25 about 30 years ago.

1 You've got to be in a certain age group to
2 remember the problem that Wilbur Mills had, but Wilbur Mills
3 was the Chairman of the Ways and Means Committee. He had a
4 great ambition. He was thinking about running for president
5 in the early '70s, and then he got a phone call from -- or
6 his chief of staff got a phone call one night about one
7 o'clock in the morning from the D.C. police that said, We've
8 got your boss in jail down here and his blood alcohol level
9 is .21. We picked him up with a stripper by the name of
10 Fannie Fox. We fished them both out of the Tidal Basin.
11 His language was so abusive and he made such a ruckus down
12 here that he attracted the attention of the national media,
13 and they're all here and they've got the story, and you
14 better get down here.

15 So he goes down there and when he gets there,
16 being a good staffer he says, well, I know it looks bad, but
17 what really happened was that Miss Fox is a very close
18 friend of the Mills family, and the Chairman was there at
19 the House very late, and Mrs. Mills broke her leg tonight,
20 and he stopped by to pick up Miss Fox, because as I said,
21 she's a close friend of the family.

22 And the police said, We're not buying that. He's
23 drunk. They were soaking wet. He's abusive. We're keeping
24 him here in jail. We'll see you tomorrow.

25 So he calls Mrs. Mills and says, Mrs. Mills, I've

1 got to come talk to you. She said, Have you seen my
2 husband? Yes, he's fine. Well, where is he? I'll tell you
3 when I get there. We've got a problem.

4 So now he gets to her house about two o'clock in
5 the morning and she says, Well, where's my husband? He
6 says, Well, it's good news and bad news. Which do you want
7 first? She said, I'll take the good news.

8 He says, Well, the good news is your husband is
9 in jail with a stripper by the name of Fannie Fox. His
10 blood alcohol level's .21. The fished them both out of the
11 Tidal Basin. He was so abusive with his language the
12 national press has the story, and I'd say his political
13 career is over.

14 She said, My God, that's the good news? What's
15 the bad news? He said, The bad news is I've got to break
16 your leg.

17 (General laughter.)

18 CHAIRMAN KENNARD: Any more comments?

19 VOICE: Please. Senator Kerrey and
20 commissioners, talking about accomplishments, I'm the
21 executive director of Nebraska Information Network, and
22 we're working very diligently with DSL technology, and I
23 think right now we have about one-third of the rural
24 exchanges doing some experimentation with DSL technology.
25 Hemingford telephone company talked about having fiber

1 within 2-1/2 miles of all rural customers already completed.

2 I think in three years you'll have about 20 towns
3 with fiber within 2-1/2 to three miles of all customers, and
4 with the DSL technologies the number of vendors with DSL
5 technology that is applicable in a rural environment about a
6 year ago was two or three. Now it's about 20.

7 So we spend a lot of time going to vendor
8 meetings, vendors coming to us, and I just saw two
9 presentations last week on DSL technology where we can
10 remote these plans out in the country without environmental
11 conditioning. So we put an eight port remote out any
12 distance out in the country.

13 And in Nebraska, just to close real quickly, we
14 have T1 availability in every community. We have 202 of our
15 250 high schools that have 45 megabit DS3, 28 T1s.
16 [indiscernible] High School has 28 T1s. I could go on
17 forever, but thanks.

18 CHAIRMAN KENNARD: Thank you very much. We have
19 time for one more question. Yes, sir?

20 VOICE: Distinguished panel, you asked for
21 stories of success or failure. I think it's too early to
22 say whether it's success or failure, Chris. Chris is our
23 lender of first and last resort.

24 But I thought that the independent companies in
25 some ways or the small rural companies here have been kind

1 of taking it on the nose a little bit here, and I think that
2 it might be well to point out some of the things which are
3 involved in providing the broadband and the telephone
4 service, and by using the specific example.

5 I'm a director of a small telephone company in
6 Northeast Nebraska, and when I think of a rural company and
7 a rural situation I do not think of Norfolk. Let's put it
8 that way. I think of villages of 85 people or a county seat
9 of some 76 or 80 people, where we provide telephone service
10 which is 30 miles from our next-nearest town. So that's
11 what I call somewhat rural.

12 But to be specific, we have a small company that
13 over the last 46 years in building the system and in small
14 purchases to consolidate the system we have expended some
15 roughly \$21 million in the last 46 years. We are now in the
16 process in order to accommodate a technology, not a
17 demand -- we have no really viable estimatable demand in our
18 hands for broadband demand in the areas in which we serve at
19 this time. We -- very difficult to put together a business
20 plan and say, This is what we've got and this is what we
21 will generate in income.

22 But as I said, we have invested some \$21 million
23 over the last 40 years. We are now in the process of
24 investing 150 percent of that -- in other words, some \$33
25 million -- to provide broadband service to bring fiber

1 within 12,000 feet to 18,000 feet of all of our customers --
2 some of them are a long way out -- in order to facilitate
3 this.

4 But you must remember that there is no
5 predictable demand in this capital investment, and I don't
6 think we are too unique from many of the small telephone
7 companies which are in this audience. That's the way we are
8 looking at it.

9 We see no payback yet. Going on the question the
10 young lady from North Carolina asked, will it be used if
11 it's there? -- we can't even answer that question yet.

12 Now, part of the problem of holding back those
13 who are not doing this and part of the problem in holding us
14 back has been one of the key elements of the 1996 law. And
15 we are laying this in the small towns and we are laying it
16 out to the farms who are really the lifeblood of these small
17 towns.

18 But the law says that if we put this fiber into
19 the ground, if we put this access into the ground, that it's
20 possible under the law for any competitor to come in in one
21 of our towns, whether it be Clearwater, Nebraska, or whether
22 it be Morse Bluff, Nebraska, or whether it be Lidwid
23 [phonetic] Nebraska, or wherever it is, and utilize this at
24 an unbundled incremental cost to provide competitive
25 service, and they may only provide competitive service to

1 the local bank, to the local insurance company, to the local
2 hospital, but not to the rural farmers.

3 So there is a real severe hold-back in the
4 investment that these people can afford to make or justify
5 making by just that one facet of that law. Yes, you can
6 bring up the rural exemption, but let's have the Public
7 Service Commission tell you what that rural exemption is
8 worth if someone requests service in that area.

9 Additionally, these costs are supposed to be
10 borne where we have diminished, where we have lessened,
11 where we have negotiated away the access charges, which have
12 been paying the rentals on these lines. These have not been
13 subsidies. These are rentals of high-cost lines to the
14 rural areas where we have negotiated these away. They are
15 supposed to be replaced or substituted with universal
16 servicing.

17 You know where the universal service fund stands
18 on the federal level -- well, on the state level. And I
19 have not seen the figures directly but I'm sure people here
20 can tell me -- we have a company, as I said, that is of this
21 size. We have approximately 7,000 lines. We have
22 approximately 3,000 miles of cable -- of line to provide
23 that. That's 7,000 customers, 3,000 miles of cable. We
24 have been under the Nebraska universal service funding --
25 and I can stand to be corrected by the people here who know,

1 but this is as I understand it.

2 In the initial payouts -- and I suppose this is
3 continuing -- 80 percent of it -- no, 70-something percent
4 of it went to one carrier, 16 percent went to another, some
5 6 percent went to another, and here we are with 7,000
6 customers over 3,000 miles of line, and to the best of our
7 knowledge, we got not one dollar of Nebraska public service
8 support.

9 So this is merely a specific example. You can
10 talk what you want in implementing broadband services and
11 service everyone, but these are some of the problems that we
12 face by the new law and by the method of paying for it. We
13 have no good plan on paper.

14 So that's the bad news, Chris. We don't know how
15 in the hell we're going to pay you back.

16 (General laughter and applause.)

17 CHAIRMAN KENNARD: Sir, before you leave, I just
18 have a follow-up question. This is really the first time
19 I've ever heard that a rural company that is subject to the
20 exemption -- the unbundling exemption in the law is required
21 to unbundle. And can you tell me a little bit more about
22 that, because that is news to me.

23 VOICE: No, it is required by the law, as I
24 understand the law, and you would understand it better than
25 I. But as I interpret the law, and as I interpret it with

1 the rural exemption that someone essentially applies for
2 service in our area, the rural exemption is somewhat
3 questioned.

4 CHAIRMAN KENNARD: That's not how I would
5 interpret the law, and we have not enforced the law in that
6 respect. Anyone who's -- we have never received a complaint
7 from a rural company subject to the exemption that they have
8 to unbundle, so I'm just -- I'm curious about why you would
9 say that.

10 VOICE: It is a real concern, because the way we
11 understand the law -- now maybe in our ignorance we don't
12 understand it correctly, but I think you have to appreciate
13 this, that as we understand the law that that can be done,
14 there is a reticence to put this product into the ground
15 because of that threat, either spoken, unspoken, real, or
16 unreal.

17 I know it's real because the fact of the matter
18 is that the overriding impetus of this whole thing is we
19 must provide competition in the rural area, and that will be
20 done, and I'm sure you recognize that as well as I do. And
21 I would have to turn to the Public Service Commission to
22 decide that finally.

23 But, no, we do not -- in our minds it is not well
24 defined that we are exempt from that if someone demands
25 access. In addition -- we can clarify that, but I would

1 hope that there would be somebody else who would give me
2 clarification of that, but that is as we understand the law.

3 MR. McLEAN: I do worry about -- we're talking
4 about 4.6 billion times. We have \$4.6 billion of
5 outstanding taxpayer's investment in rural
6 telecommunications companies.

7 Now, there's one aspect of the telecom act
8 frankly that I've been surprised has not been utilized.
9 It's the -- the act says that in areas served by rural
10 telecommunications companies that states may have multiple
11 telecommunications carriers. In other words, a state may
12 determine that in a rural area it's not appropriate to have
13 two grocery stores, two supermarkets, two gas stations, or
14 two telecommunications --

15 VOICE: As opposed to shall do it.

16 MR. McLEAN: As opposed to shall in the non-
17 rural-elect territories, where there shall be multiple
18 eligible telecommunications carriers. As I look through our
19 \$4.6 billion loan portfolio and look at the individual
20 states taking advantage of that discretion, states generally
21 are not doing that, because that first question is right at
22 the state level as to whether you're going to have that
23 potential risk of having that first bona fide request for
24 unbundled network elements.

25 And so the other thing is in fashioning the

1 universal service support system, the law says sufficient,
2 specific, and predictable.

3 Now, I've had the privilege and honor of serving
4 on the Rural Task Force which the FCC had appointed me to,
5 and we are working very diligently to come up with decent
6 recommendations for the joint board and the commission on
7 how to structure universal service support for rural
8 companies, because we just published a paper not too long
9 ago called the Rural Difference. And comparing the fate
10 of -- and the service territories of rural carriers to non-
11 rural is very dramatic.

12 Two-thirds of their revenues come from toll and
13 universal service support if you're rural. It's the
14 opposite if you're non-rural. The composition of business
15 versus residential -- almost exact opposite between rural
16 and non-rural. And the concentration of those very high
17 cost lines are substantially concentrated in the rural
18 areas.

19 We heard one of our witnesses today talk about
20 being very proud of having ten customers per square mile.
21 On average, RUS borrowers in Nebraska have less than three
22 customers per square mile, and they're doing it in a capped
23 universal service support system which is nationwide
24 underfunding their investments by over \$130 million this
25 year.

1 So there's an uncertainty. And in the years
2 since the telecom act that has passed, we have seen demand
3 for our loans funds being depressed, because I think that
4 individuals are concerned about putting 20-and 30-year
5 investments without knowing what's going to happen after
6 1/1/01, which the commission has set for the new rules for
7 rural LECs.

8 But again, Tom's company is another example of
9 local community companies being dedicated to trying to bring
10 out the most advanced services possible.

11 VOICE: Chris, I think in view of what has been
12 said, this is the perfect time to get a guarantee in writing
13 that we don't have to worry about competition for all the
14 new fiber optic that we're putting in.

15 MR. McLEAN: Is that in black and white?

16 CHAIRMAN KENNARD: You won't get that guarantee
17 from me today, sir.

18 (Laughter)

19 VOICE: You sound like the Internal Revenue
20 Service.

21 (Laughter)

22 CHAIRMAN KENNARD: Well, I think that that was a
23 fitting close to our session today. Are there any other
24 questions?

25 SENATOR KERREY: Just as a follow on to that, I

1 should ask whether or not the state PUC has taken that up?

2 CHAIRMAN KENNARD: The unbundling question?

3 SENATOR KERREY: Yes, the unbundling question.

4 CHAIRMAN KENNARD: That's a good question.

5 SENATOR KERREY: And I don't know if they have or
6 not. Can you give more certainty than the IRS?

7 VOICE: I think the real question is has there
8 been any bona fide request for lifting the rural exemption?
9 There hasn't been any, to my knowledge. I've heard some
10 rumors that we're getting close, maybe, to some requests in
11 certain areas, but that hasn't happened. We do have Western
12 Wireless's ETC status and more information that should be
13 decided soon that may have an effect.

14 MR. KENNARD: Tom?

15 MR. LATHAM: Well, Mr. Chairman, I think the word
16 in Iowa is that we've never seen a rural exemption that we
17 liked. We have had rural exemption requests and we have
18 denied those and that has not been a large number, so to my
19 knowledge we have not held any at this point in time.

20 Now, there may be some confusion, I suppose,
21 because if I remember the law correctly you are required at
22 resale an interconnection without any exemptions, and you
23 are required to have resale, so I'm not sure if that isn't
24 where this is coming from.

25 CHAIRMAN KENNARD: It could be. That's clear in

1 the law. But the unbundling requirement I've never
2 understood to be applied to companies subject to the rural
3 exemption. My interpretation of the law is that it would
4 not be, and --

5 VOICE: I think that is correct. What we have
6 looked at, we have voided the rural exemption in those cases
7 that have come before us and I think for good cause in this
8 situation. I think you have to take them as they come
9 forward, and we have had some companies that have gone into
10 US West or GTE territory as competitors and then when the
11 shoe comes on the other foot, then they claim the rural
12 exemption in their territories. And that might be a little
13 harder to apply.

14 CHAIRMAN KENNARD: I think that one of the issues
15 that was raised by the previous gentleman's comments and
16 questions really has to do with certainty. As I've talked
17 to a number of business people who run small independent
18 telephone companies, there's a lot of uncertainty about the
19 future.

20 When I stepped into this job in 1997, in the
21 latter part of that year, there was a tremendous amount of
22 fear that the FCC was going to impose the 75-25
23 jurisdictional split on universal service funding. There
24 was a real concern that the FCC was going to restructure
25 universal service funding for the rural telephone companies

1 in January of 2001, and no one knew what that was going to
2 look like. And what the Commission has attempted to do in
3 that period of time is to try to calm people's fears.

4 We were very clear that we rejected the 75-25
5 split, and I think that gave people some sense that we were
6 not going to impose an artificial limit on additional
7 federal support for intrastate universal service funding. I
8 also announced early on in my tenure as Chairman that we
9 would have a hold-harmless provision, so that any -- so
10 existing levels of support would be maintained.

11 And I also announced that this January 2001
12 deadline was not a firm date, that as far as I was
13 concerned, the FCC was not going to proceed to restructure a
14 universal service for rural companies until we had a plan.

15 So we said that that was not going to be a firm
16 deadline until we're ready and we set up this rural task
17 force that Chris is thankfully a member of, along with some
18 other people from around the country to come up with a plan.

19 And we don't know what that plan is going to look
20 like yet, and we really need your input on it.

21 What is clear to me is that the universal service
22 structure for rural companies is not going to look like the
23 structure we just did for the non-rural companies, for a lot
24 of the reasons that Chris just mentioned. It's a different
25 business environment altogether. But what we're facing now

1 is a little bit of a catch-22.

2 On the one hand we've said we're not going to
3 impose a new universal service subsidy system for the rural
4 LECs until we have a plan, and we want those companies to
5 help us develop a plan.

6 And by the way, we've got a lot of pressure from
7 members of Congress who've asked us to come up with a plan
8 now, and we have resisted that because, frankly, we don't
9 have the blueprint yet.

10 On the other hand, we hear -- and there was
11 implicit in what this gentleman was saying that he doesn't
12 want to make the long-term investments until he knows what
13 the long-term subsidy system is, and that is a real dilemma,
14 because you don't want us to rush to judgment here because
15 we don't know what all the answers are.

16 On the other hand, you're having trouble making
17 the long-term investments until you know exactly what the
18 situation's going to look like, so this is our dilemma.

19 I think the only answer is that we've got to get
20 that report from the rural task force. Hopefully it will
21 answer a lot of the questions that are unanswered at this
22 point and move ahead. But I'm hopeful that people are not
23 assuming that by January 1, 2001, we will have a universal
24 service plan in place for the rural companies, because I'm
25 not prepared to move on one, I will not vote on one, until

1 we have the answers.

2 MS. BOYLE: Commissioner Kennard, it has been an
3 honor to have you in Nebraska and to be here with the
4 Nebraska and Iowa commissions.

5 Senator Kerrey, thank you for being here.

6 Commissioner Sanford, thank you very much.

7 And, Chris, it is always great to have you here.

8 There is a news conference that is to have
9 started about twenty minutes ago. You could keep all of us
10 here probably for the rest of the day because all of us are
11 very grateful for your being here. Thank you.

12 (Applause.)

13 (Whereupon, at 5:23 p.m., the meeting was
14 concluded.)

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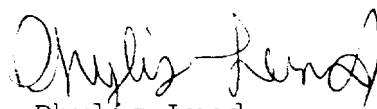
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IN RE: Midwestern Regional Field Hearing
DATE: April 19, 2000
LOCATION: South Sioux City, Nebraska

I hereby certify that the proceedings and
evidence are contained fully and accurately on the tapes
and notes reported by me at the hearing in the above case
before the Federal Communications Commission.

Date: April 27, 2000



Phyllis Lund

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